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Security Council Committee established pursuant to resolution 1267 (1999)

Note verbale dated 2 September 2003 from the Permanent Mission of Kazakhstan to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of the Republic of Kazakhstan to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) and has the honour to transmit herewith the report of the Republic of Kazakhstan on the implementation of Security Council resolution 1455 (2003) of 17 January 2003.

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Annex to the note verbale dated 2 September 2003 from the Permanent Mission of Kazakhstan to the United Nations addressed to the Chairman of the Committee

Report of the Republic of Kazakhstan to the Security Council Committee established pursuant to resolution 1267 (1999) submitted in conformity with resolution 1455 (2003)

The Republic of Kazakhstan resolutely and unconditionally condemns terrorism in all its manifestations and supports and actively participates in the existing international agreements concerning the various aspects of counter-terrorism.

The adoption of effective measures to counteract and outlaw terrorism is one of the priorities of Kazakhstan's domestic and foreign policy.

Kazakhstan has adopted supplementary measures to strengthen the national border, tighten customs controls, identify extremist and unlawful groupings and prevent illegal migration. The tracing of accounts and funds possibly belonging to international terrorists and their sponsors is continuing.

The legal and regulatory framework established in Kazakhstan for combating terrorism has facilitated the development of a strategy to counteract terrorism and prevent and suppress terrorist activities in the State through ideological, information-based and organizational means.

The Act "on measures to combat terrorism" has been in force in Kazakhstan since July 1999. A Presidential decree on measures to counteract terrorism and extremism was issued in February 2000; in November 2000, a State programme for combating terrorism and other forms of extremism and separatism in the Republic of Kazakhstan for 2000-2003 was approved. With the adoption of a national security strategy for the Republic of Kazakhstan (1999-2005), the conceptual framework for maintaining national security — as laid out in the Strategy for the Development of Kazakhstan through 2030 — was given concrete expression.

Decree No. 1644 of the Government of the Republic of Kazakhstan on measures for implementing United Nations Security Council resolution 1373 (2001) of 28 September 2001 was adopted on 15 December 2001, instructing ministries and Government departments to take the necessary measures to counteract and outlaw terrorism.

The Criminal Code stipulates the elements of offences to be considered as terrorist offences, which carry penalties of up to 15 years' imprisonment, including in article 162 (Mercenarism), article 233 (Facilitation by providing or collecting funds for the commission of terrorist acts) and article 251 (Unlawful procurement, transfer, sale, storage, transport or carrying of weapons, ammunition, explosive substances and explosive devices). In addition, the Criminal Code establishes as an offence the founding or leadership of parties or trade unions financed by foreign States or individuals (article 337).

Introduction

Information on the possible discovery of activities by Osama bin Laden, al-Qa`idah, the Taliban and their associates has been disseminated in the appropriate ministries and Government departments.

Consolidated list

The names of all the individuals, organizations, groups and enterprises mentioned in the list have been sent to the ministries and Government departments concerned.

The law enforcement agencies, financial police and border and customs control services are conducting continuous surveillance to prevent the entry into the territory of Kazakhstan of individuals and organizations included in the list of the Security Council Committee established pursuant to resolution 1267 (1999).

On 16 May 2003, the National Security Committee detained in Kazakhstan three members of the international terrorist organization the Eastern Turkistan Islamic Party. Those detained included the leader of a cell of the Party's Central Asian branch, Mr. O. Khozhdaev. Weapons, ammunition and home-made explosive devices were confiscated from the terrorists.

Financial and economic assets freeze

Following the conduct of checks by the Office of the Procurator General, which did not uncover any financial accounts or assets in Kazakhstan belonging to the individuals mentioned in the Committee's list, the National Bank of the Republic of Kazakhstan instructed second-tier banks, insurance organizations, credit and deposit associations, category 1 broker-dealers and registrars to take immediate steps in the event that they found information concerning such accounts or assets.

In particular, the Bank directed second-tier banks in Kazakhstan:

1. To verify the existence of data for the past three years on legal and natural persons involved in terrorist activities;

2. To give urgent consideration, in strict confidentiality, to requests for information and instructions in this regard from the Republic's law enforcement agencies which are submitted in accordance with established procedure and for which Kazakh legislation provides;

3. To adopt internal bank documents regulating operations with clients and correspondent banks, including the following internal monitoring arrangements and issues:

- Carrying out checks on new clients for possible involvement in the funding of terrorist activities prior to the opening of bank accounts, with particular attention to new applications from non-residents of Kazakhstan (the opening of banks accounts anonymously or on the basis of information not checked against relevant documentation is prohibited);
- Receiving, in accordance with established procedure, supplementary information from international organizations (their offices and representatives) when they open bank accounts so as to ensure that the bank is adequately informed about the structure of the organization, its sources of funding, its

banking requirements and the whereabouts of the owners or other entities controlling its activities;

- Defining the basic indicators of suspicious transactions and compiling a list of urgent measures to be taken in such cases, including conditions for carrying out supplementary checks on large transactions or instructions by clients who have raised the bank's suspicions;

- Strengthening monitoring of the activities of bank personnel working in these areas.

4. To submit quarterly information concerning the implementation of all these instructions to the National Bank.

Failure to notify the authorized body of suspicious transactions is to be established as an administrative offence.

It is assumed that transactions that are of an unusual nature, have no apparent economic benefit, are high risk or involve countries not implementing the recommendations of the Financial Action Task Force on Money Laundering (FATF) should be categorized as suspicious.

Under article 4 of the draft law, monitoring is mandatory for transactions involving money or other property if the sum concerned is equal to or exceeds:

- For a natural person, 2,000 minimum accounting indices;

- For a legal person, 5,000 minimum accounting indices.

Transactions carried out by Government agencies are not subject to mandatory monitoring.

The following transactions involving money or other property are subject to monitoring:

- Purchase or sale of foreign currency;

- Procurement of securities;

- Cashing of bearer cheques;

- Exchange of banknotes of one denomination for banknotes of another denomination;

- Withdrawal from or deposit in a bank account of funds, both single transactions and transactions made in the course of one day;

- Transfer of funds from or to offshore zones;

- Making of insurance payments to natural or legal persons, or receipt from such persons of insurance premiums for life insurance and other types of accrual insurance;

- Transfer of funds to foreign accounts opened anonymously, receipt of funds from foreign accounts opened anonymously, making of deposits for third parties;

- Transactions involving immovable or other property subject to mandatory State registration;

– Payment or disbursement of prizes for lotteries, totalizators and electronic games.

In accordance with Kazakh legislation, the National Bank may guarantee that there are no anonymous accounts.

The legislation on currency stipulates several cases in which clients' accounts may be blocked, specifically:

– Where funds received for a resident have been obtained as the result of currency operations for which a licence is required and/or a registration certificate from the National Bank, the authorized bank has the right to credit the funds received to the resident's bank account without the resident's presenting the licence and/or registration certificate from the National Bank, provided that it first notifies the resident in writing that it is necessary to present them. Prior to presenting the required documents to the bank, the resident does not have the right to use such funds to make payments and/or transfers, except for mandatory payments made pursuant to legislative acts of Kazakhstan (tax payments);

– Under the Instructions on the organization of controls on the import and export of currency in the Republic of Kazakhstan, approved by decision No. 343 of 5 September 2001 of the administration of the National Bank, funds received in the bank account of an exporter/importer which have not been identified by him or her on the basis of a registration certificate for a specific transaction may not be used by the importer/exporter, prior to identification, to make payments and/or transfers, except for mandatory payments made pursuant to legislative acts of Kazakhstan (tax payments).

Regarding the opening of bank accounts anonymously, paragraph 11 of the Instructions on the procedure for opening, managing and closing bank accounts of clients in banks of the Republic of Kazakhstan, approved by decision No. 266 of 2 June 2000 of the administration of the National Bank, lists the documents required to open a bank account. These include, for legal persons (resident and non-resident), a notarized copy of the by-laws (for separate subdivisions, the regulations) or a document attesting to the client's activity on the basis of standard by-laws and a copy of a document with an established format issued by an authorized body attesting to the fact of official registration, as well as notarized copies in the national and/or Russian language of the regulations concerning the relevant branch or agency and a copy of the authorization issued by a legal person not resident in Kazakhstan to the head of the branch or agency.

The aforementioned norms ensure that payments and transfers of funds between residents and non-residents are transparent and that bank accounts cannot be used for the illegal conversion into cash of funds.

It is thus practically impossible to open bank accounts anonymously in second-tier banks.

In accordance with a decision of the administration of the National Bank, second-tier banks are obliged to adopt all necessary documents regulating operations with clients and partner banks. There is no provision for fines in case of refusal.

In addition, Kazakhstan is drafting legislation on combating the legalization of funds obtained illegally. In particular, it has elaborated a draft law on prevention of

the legalization of funds obtained illegally, which stipulates that all financial institutions have a duty to inform the authorized bodies of all suspicious transactions, including the identification of terrorists among bank customers.

Also, the financial police agencies are currently developing a draft law of the Republic of Kazakhstan on mandatory monitoring of individual financial transactions, which contains provisions on the mandatory monitoring of transactions involving money or other property, including those carried out for terrorist ends.

Travel ban

Kazakhstan's specialized databank for checking persons who are prohibited from entering the country owing to involvement in terrorist or extremist activities is regularly updated and corrected. Close cooperation is maintained among the special law enforcement, border and customs agencies of the Republic of Kazakhstan in order to enhance the effectiveness of this work.

Law enforcement agencies monitor and oversee the situation in the field of migration in order to detect and halt illegal migration.

In accordance with the decision by the Government of the Republic of Kazakhstan "on certain measures to strengthen migration control", migration control cards were instituted in order to keep records of the stay of foreign nationals.

In order to detect channels for illegal migration, special measures are being conducted jointly with border and customs agencies at border and junction stations in clearing international passenger trains and conducting operational checks of foreign nationals detained for illegal entry into the territory of the Republic of Kazakhstan.

The "migrant" special-purpose operational and preventive measures are regularly conducted in the territory of Kazakhstan, the basic purpose of which is to monitor compliance by foreign nationals with the regulations on staying in the country, and to detect and suppress illegal migration and its organization.

Measures are being taken to tighten the pass regime on our country's southern borders and to strengthen the passport and customs control at passage points between the Republic of Kazakhstan and the Republic of Uzbekistan, the Kyrgyz Republic and Turkmenistan.

In order to combat illegal migration, including the transit of illegal migrants through Kazakhstan, operational subunits have been set up in the system of migration police offices in the regions, the cities of Astana and Almaty and on transport facilities. These subunits serve at migration control posts and within mobile groups.

All migration services were informed of the list drawn up by the Committee established pursuant to resolution 1267 (1999) in order to impose a travel ban. No persons indicated on the list have been detained at border control points of the Republic of Kazakhstan.

Arms embargo

Trade in weapons, military equipment and dual-use items in the Republic of Kazakhstan is regulated by the Acts "on export control" and "on trade in specific

types of weapons", decision No. 1919 of 14 December 1999 "on approval of the regulations for conducting export control in the Republic of Kazakhstan and the regulations for defining obligations concerning the use of goods imported into the Republic of Kazakhstan and subject to export control and on checks for their implementation", decision No. 1143 of 11 August 1999 "on specific questions relating to the transit of goods subject to export control", decision No. 1037 of 30 June 1997 "on the export and import licensing of goods (work and services) in the Republic of Kazakhstan", decision No. 1282 of 18 August 2000 "on approval of the list of goods subject to export control in the Republic of Kazakhstan", as well as international treaties ratified by the Republic of Kazakhstan.

Kazakhstan is carrying out the measures to strengthen monitoring of trade in weapons, military equipment and dual-use items that are subject to export control.

In accordance with the normative acts cited, trade in weapons and their export/re-export, import/re-import, and transit are subject to export control. This means that the person who has expressed an intention to trade in weapons must submit a specific set of documents necessary for the issuance of a permit. The documents will be carefully checked by the State Committee of the Republic of Kazakhstan on Export Control to determine authenticity and compliance with national requirements as well those of international non-proliferation regimes.

Trade in weapons, military equipment and dual-use items is monitored at all stages from the time of submission of an application by a legal person up to the check of the final use of special-purpose goods in the importing country. Work is being conducted to ensure the security of sites where there are weapons and ammunition.

In accordance with paragraph 11 of the Regulations for Conducting Export Control in the Republic of Kazakhstan, which was approved by a decision by the Government of the Republic of Kazakhstan on 14 December 1999, the export and import of items subject to export control, in specific cases, are carried out without a special decision by the Government. Such cases concern the export or import of:

1. Special components for weapons and military equipment to maintain the production and repair of military goods by Kazakhstan's industrial enterprises in cooperation between its plans and those of enterprises in foreign countries;

2. Special components for maintaining the production of military goods in foreign countries under Kazakhstan's licences;

3. Spare parts, training and support items for weapons and military equipment previously supplied to foreign countries, in order to conduct work to ensure their technical maintenance and repair, inter alia, with the use of serially issued components in exchange for those removed from production.

Accordingly, the arms embargo provided for under Security Council resolution 1455 (2003) has the force of law.

One of the basic tasks facing Kazakhstan's national security agencies is the timely detection, prevention and suppression of illegal trafficking in firearms, ammunition, radioactive materials, and explosive and toxic substances.

The legal basis for carrying out the operational investigative activities in this area are articles 247-249 and 255 of the Criminal Code of the Republic of

Kazakhstan (the second, third and fourth parts relating to the theft or extortion of weapons of mass destruction as well as materials or equipment which may be used to create weapons of mass destruction). Investigations under these articles fall within the competence of the National Security Committee of Kazakhstan, in accordance with article 192 of the Criminal Code.

The grounds for carrying out work in this field are:

- The possible use of firearms, explosive and toxic substances and, in particular, radioactive materials in carrying out terrorist acts;
- The use of weapons in the event of mass rioting.

Work to ensure the security of sites where there are weapons, ammunition, explosive and toxic substances and radioactive materials has made possible the speedy detection and suppression of the theft of weapons.

A priority task in this field is to prevent access by terrorists to areas around military units, permit-system sites and enterprises in various branches of industry where explosive and toxic substances and radioactive materials are stored and used, in order to detect attempts by criminals to acquire firearms and ammunition, and to close in an effective manner channels for their theft and also to organize preventive work at these sites.

Work to ensure the security of such sites is being conducted with account taken of the regime, engineering and technical, military and other measures being taken by their administrations in order to protect the sites from criminal attacks.

Accordingly, work in this area consists, on the one hand, in establishing at the sites an effective protective barrier for preventing possible criminal attacks and, on the other hand, in the immediate detection, prevention and suppression of specific illegal intentions.

In addition, the corresponding State agencies of the Republic of Kazakhstan transmit quarterly to the country's competent bodies information on the illegal movement of printed and other publications with a religious content, weapons, ammunition and other types of weapons of mass destruction as well as on cases of the smuggling of narcotic substances and their illegal storage and on the measures taken to deal with these problems.

In order to ensure the security of nuclear materials being transported internationally and their use for peaceful purposes by the ministries and departments concerned, all appropriate measures are being taken to strengthen the systems for registering and monitoring nuclear and other radioactive materials and for combating illegal trafficking in them.

In accordance with the provisions of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), which was ratified by Kazakhstan, concerning the obligations of States parties to ensure the security of nuclear materials and technologies, the Act of the Republic of Kazakhstan "on the use of atomic energy" was adopted in April 1997, a State system of physical protection was developed and established, which provides for ensuring the security of nuclear materials and nuclear installations in Kazakhstan. In particular, regulations are being drawn up to ensure the physical protection of nuclear materials and nuclear installations in the

Republic. All the measures are designed to prevent potential danger resulting from the illegal seizure and use of nuclear materials.

Assistance and conclusion

Kazakhstan is making an active effort to set up a system to counteract terrorism at the regional and international levels. Kazakhstan provides on an ongoing basis help to partner States in the anti-terrorist coalition. Information and experience are exchanged between the competent agencies of Kazakhstan and foreign countries.

The Treaty on Cooperation by the States Members of the Commonwealth of Independent States (CIS) in Combating Terrorism was concluded on 4 June 1999 and is based on a clear definition of the concept of "terrorism" in all its manifestations.

Cooperation within the framework of the Treaty is conducted on the basis of requests for assistance by the parties concerned or on the initiative of the parties.

The Agreement on Cooperation by the CIS Ministers of Internal Affairs was signed on 8 September 2000 in order to further develop these relations.

Cooperation is continuing in conducting coordinated preventive and special operations to prevent, detect and suppress crimes, including terrorist and extremist crimes, the taking of hostages, illegal migration channels, in exchanging information on members and persons involved in terrorist, extremist and separatist organizations, and in investigating and detaining them, and closing their routes for moving through the territory of the Commonwealth.

Within the framework of the Shanghai Cooperation Organization, the Shanghai Convention on Combating Terrorism, Separatism and Extremism was signed in June 2001. Under the Convention, the parties, within a framework permitted under international law and the domestic legislative norms of the States parties, will take all necessary measures to prevent the justification of terrorism, separatism and extremism on the basis of political, philosophical, ideological, racial, ethnic, religious or other considerations and to punish offences in accordance with their gravity.

In addition, preparatory courses, training sessions, and instruction courses are conducted for representatives of the special services involved in combating terrorism.

Furthermore, within the framework of the "Enduring Freedom" anti-terrorist operation in Afghanistan, in 2002 Kazakhstan made Almaty International Airport available to the Government of the United States of America for emergency landing by aircraft of the United States Air Force. In 2003, the airport in Shymkent was also made available to the Air Forces of the Kingdom of Denmark and the Kingdom of Norway for emergency landing.

The Republic of Kazakhstan has concluded bilateral agreements on cooperation in counteracting terrorism and international organized crime with the Federal Republic of Germany, Hungary, Pakistan, the People's Republic of China, Uzbekistan, the Russian Federation, Kyrgyzstan, Georgia, Moldova, Ukraine, Lithuania, Turkey, India and Poland.

Under an agreement between Kazakhstan and the United States, a regional office of the Federal Bureau ot Investigation for combating terrorism was opened in Almaty in 2000 in the United States Embassy.

Kazakhstan's competent agencies, in accordance with national legislation and international treaties, have developed a mechanism for exchanging operational information with the special services of foreign States in the field of combating terrorism and extremism. Information is transmitted to the CIS Anti-Terrorist Centre and special subdivisions of the Ministries of Internal Affairs of CIS countries, the People's Republic of China and Turkey concerning the establishment within the structure of Kazakhstan's Ministry of Internal Affairs of a subdivision for combating terrorism and religious extremism. The exchange of information on this subject has been organized, and cooperation is being conducted with the Interpol National Central Office.

Kazakhstan wishes to draw attention to the fact that the current 12 conventions are limited by their sphere of application (air or sea transport), or the persons against whom terrorist acts are directed (diplomatic personnel or hostages).

In this connection, Kazakhstan believes that the necessary requisites exist for elaborating further universal agreements in this field.

On the basis of reciprocity and also within the framework of existing international agreements, Kazakhstan is prepared to continue to provide assistance to the competent agencies of foreign States in carrying out measures to counteract terrorism.

Accordingly, the Republic of Kazakhstan is taking consistent and specific steps aimed at preventing and suppressing international terrorism and strengthening international cooperation in this field.